

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Banking and Insurance Committee

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BILL: SB 108

SPONSOR: Senator Fasano

SUBJECT: Motor Vehicle Repair Shops (Mandatory Liability Insurance)

DATE: February 6, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Woods</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Senate Bill 108 requires motor vehicle repair shops to provide proof of at least \$300,000 of liability insurance on repairs performed by such shops as a condition of initial or renewal registration with the Department of Agriculture and Consumer Services (department). Failure to provide proof of liability insurance is grounds for denial, revocation, or refusal of renewal of the repair shops' registration. Under current law, motor vehicle repair shops are not required to carry any liability insurance on repairs performed by such facilities.

The bill also imposes an administrative fine not to exceed \$5,000 per violation for failure to maintain the required liability insurance and provides that a person who engages in motor vehicle repair and fails to maintain the \$300,000 liability insurance commits a misdemeanor of the second degree.

This bill substantially amends sections 559.904 and 559.921 of the Florida Statutes.

## II. Present Situation:

### Florida Motor Vehicle Repair Act

The Florida Motor Vehicle Repair Act (Act) is contained in ss. 559.901- 559.9221, F.S., and requires all motor vehicle repair shops to register with the Department of Agriculture and Consumer Services (department) and to renew their registration biennially.<sup>1</sup> The Act requires

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<sup>1</sup> A *motor vehicle repair shop* is defined to mean any person who, for compensation, engages in the repair of motor vehicles owned by other persons and includes, but is not limited to, mobile motor vehicle repair shops; motor vehicle and recreational vehicle dealers; garages; service stations; self-employed individuals; truck stops; paint and body shops; brake, muffler, or transmission shops; and shops doing glass work. A person who engages solely in the maintenance or repair of the coach portion of a recreational vehicle is not a motor vehicle repair shop (s. 559.902(6), F.S.). *Motor vehicle repair* means all

repair shops to provide estimates for repairs, invoices for completed repairs, and makes it unlawful for the cost of repairs to exceed the estimate by specified amounts. The Act declares various actions are unlawful acts and practices, including making or charging for repairs not authorized by the customer, misrepresenting certain parts and services necessary to repair a vehicle, willfully departing from accepted practices and professional standards and more.<sup>2</sup>

The Act does not apply to the following motor vehicle repair shops, however, these repair shops may voluntarily register under the Act:

- any motor vehicle repair shop of municipal, county, state, and federal government when carrying out the functions of the government;
- any person who engages solely in the repair of
  - motor vehicles which are owned, maintained, and operated exclusively by such person for that person's own use; or,
  - any for-hire vehicles, as defined in s. 320.01(15) (a), F.S., which are rented for periods of 30 days or less;
- any person who repairs only motor vehicles which are operated principally for agricultural and horticultural pursuits on farms, groves, and orchards;
- motor vehicle auctions licensed under s. 320.27(1)(c)4, F.S., and persons performing motor vehicle repair solely for such auctions; and
- any shop located in public schools as defined in s. 1000.04, F.S., and charter technical career centers as defined in s. 1002.34, F.S.<sup>3</sup>

#### **Current Requirements for a Vehicle Repair Shop Registration Certificate**

Section 559.904, F.S., requires applicants registering for motor vehicle repair shops to provide the following information:

- The name of the applicant.
- The name under which the applicant is doing business.
- The business address at which the applicant performs repair work or in the case of a mobile motor vehicle repair shop, the home address of the owner, if different from the business address.
- Copies of all licenses, permits, and certifications obtained by the applicant or employees of the applicant.
- The number of employees the applicant intends to employ or which are currently employed.
- Each application for registration must be accompanied by a registration fee calculated on a per-year basis as follows: If the place of business has 1 to 5 employees, the fee is \$50; if the place of business has 6 to 10 employees, the fee is \$150; and if the place of business has 11 or more employees the fee is \$300.

The department may deny, revoke, or refuse to renew the registration of a motor vehicle repair shop if it determines its directors, officers, or owners have failed to meet the requirements for

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maintenance of and modifications and repairs to motor vehicles, and diagnostic work incident thereto, including the rebuilding or restoring of rebuilt vehicles, body work, painting, warranty work, and other work customarily undertaken by motor vehicle repair shops (s. 559.902(8), F.S.).

<sup>2</sup> Section 559.920, F.S.

<sup>3</sup> Section 599.902, F.S.

registration; have not satisfied a civil fine or other enforcement action; have had against them any civil, criminal or administrative adjudication based on fraudulent conduct; or had a judgment entered against them brought by the department or the state attorney.<sup>4</sup>

As of February 1, 2006, there were 22,164 motor vehicle repair shops registered with the department in Florida. According to department representatives, the majority of these shops are small and employ from one to five employees.<sup>5</sup> The department annually receives from 2,200 to 2,500 complaints against motor vehicle repair shops from consumers which range from billing or contract disputes; misrepresentations by shops; poor service; repairs which were not made; or unauthorized repairs. A department official stated that they have not received a complaint within the past ten years against a repair shop for negligently causing the death of a customer due to repairs performed on his or her automobile. However, according to the sponsor, a constituent named Abelardo ‘Al’ Castillo died as a result of negligent repairs to his automobile which were performed by an uninsured motor vehicle repair shop located in Pasco County in 2001. This bill is named for Mr. Castillo.

Motor vehicle dealers<sup>6</sup> are subject to the requirements of the Act<sup>7</sup> and are also regulated under s. 320.27, F.S., which mandates that they maintain, at a minimum, \$25,000 in liability coverage.

### **Penalties**

The department may impose penalties against repair shops under s. 559.921, F.S., if it finds such facilities: (a) violated the Act or rules adopted thereunder; (b) made a material false statement in their application; (c) refused or failed to produce any documents required to be disclosed to the department; (d) or made a material false statement in response to any request or investigation by the department. Penalties<sup>8</sup> imposed range from issuing a notice of noncompliance; imposing an administrative fine of \$1,000 per violation; issuing cease and desist orders; refusing to register or revoking or suspending a registration; or placing a registrant on probation for a period of time.

### **Liability Insurance**

Generally, liability insurance covers claims against an insured arising out of the insured’s legal liability from a covered activity or situation that results in covered expenses or damages. Liability insurance claims involve three parties: the insurer, the insured, and a “third” party, the claimant, who brings a legal complaint against the insured. The insurance company pays the claimant on behalf of the insured if the insured is legally liable for the injury or damage. Although motor vehicle repair shops are not required by law to carry liability insurance on repairs performed by such facilities, such a requirement was enacted by the Legislature in 1993.<sup>9</sup> That provision required each motor vehicle repair shop to maintain liability insurance with respect to repair work; however, a specific amount of such insurance was not required. Motor

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<sup>4</sup> Section 599.904(10), F.S

<sup>5</sup> Approximately 90 percent of repair shops employ five employees or less. This figure does not include repair shops in Broward or Dade County or automobile dealer repair shops.

<sup>6</sup> A *motor vehicle dealer* is defined to mean any person engaged in the business of buying, selling, or dealing in motor vehicles at wholesale or retail, or who may service and repair motor vehicles (s. 320.27(1)(c), F.S.).

<sup>7</sup> However, dealers do not have to pay the biennial registration fee to the department.

<sup>8</sup> The Department of Highway Safety and Motor Vehicles shall have exclusive authority to impose penalties for motor vehicle and recreational vehicle dealers licensed under ch. 320, F.S.

<sup>9</sup> Chapter 93-219, Laws of Florida.

vehicle repair facilities which performed only “minor repairs” were exempt from the insurance requirement. One year later, the Legislature repealed the provision.<sup>10</sup>

### III. Effect of Proposed Changes:

**Section 1.** The act is cited as the “Abelardo ‘Al’ Castillo Act.” Mr. Castillo died as a result of negligent repairs to his automobile performed by an uninsured motor vehicle repair shop located in Pasco County in 2001.

**Section 2.** Amends s. 559.904, F.S., relating to registration of motor vehicle repair shops with the Department of Agriculture and Consumer Affairs (department). The bill requires each applicant for an initial or renewal registration to furnish to the department evidence of current and valid liability insurance in the amount of \$300,000 on repairs performed by a motor vehicle repair shop. Failure to maintain in force liability insurance constitutes grounds for denying, revoking, or refusing to renew the registration of the motor repair shop.

**Section 3.** Amends s. 559.921, F.S., pertaining to remedies by the department. The bill imposes an administrative fine not to exceed \$5,000 per violation for failure to maintain the \$300,000 liability insurance required under Section 1 of the bill. The legislation also provides a person who engages in motor vehicle repair and fails to maintain current and valid liability insurance commits a misdemeanor of the second degree, punishable as provided in ss. 775.082, F.S. or 775.083, F.S.

**Section 3.** Provides an effective date of July 1, 2006.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

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<sup>10</sup> Chapter 94-298, Laws of Florida.

**B. Private Sector Impact:**

Any person who owns a motor vehicle repair shop must furnish evidence of \$300,000 liability insurance at the time of initial or renewal application for registration with the department. This mandate would likely result in additional costs to such owners depending on their claims experience, location, number of employees, and the volume of sales for their repair facilities. Owners of smaller repair shops (1-5 employees) will be affected the most as they represent the largest population of registered shops. Officials with the Florida Independent Automobile Dealers Association, whose membership is made up of used car dealers, state that this bill will greatly impact their 9,300 members because the great majority of their members operate small dealerships (less than 5 employees) and they are currently required to obtain just \$25,000 in liability insurance.

The Office of Insurance Regulation (OIR) has estimated what the average annual statewide premium would be for a motor vehicle repair shop carrying \$300,000 in liability insurance. Such rates are established for auto shops in relationship to the gross sales for such shops. The annual premium for a repair shop with \$500,000 in annual sales would be \$2,700. This rate is based on an average of \$5.40 per thousand of gross sales. For repair shops with \$1 million in annual sales, the average annual premium would be \$5,360. Representatives with the OIR state that typical limits for liability insurance are \$100,000, \$500,000 and \$1,000,000.

A representative with an insurer in central Florida provided committee staff with estimated premiums for providing \$300,000 in liability coverage for repairs for motor vehicle repair facilities that do either \$500,000 or \$1 million in gross annual sales. The liability insurance would cover bodily injury and property damage. Claims history, location of the repair shop, and the volume of sales for a repair shop were the primary indicators for setting liability rates for such facilities, according to this representative. The annual premium for a repair shop with \$500,000 in gross sales would average approximately \$3,000 to \$3,500 and the annual premium for a shop with \$1 million in gross sales would average approximately \$6,000 to \$7,000.

**C. Government Sector Impact:**

The department does not anticipate any additional costs under the provisions of this legislation.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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